

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

AN ORDINANCE relating to land use and zoning, amending Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the current Seattle Land Use Code (SMC, Title 23) of the Seattle Municipal Code, to correct omissions from previous amendments and facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.49.011 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.011 Floor area ratio

A. General ~~((S))~~standards~~((r))~~

1. The base and maximum floor area ratio (FAR) for each zone is provided in Table A for 23.49.011.

~~((Table A for 23.49.011
Base and Maximum Floor Area Ratios (FARs)))~~

Table A for 23.49.011 Base and Maximum Area Ratios (FARs)		
Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in DMC 65 4.5 in DMC 85 5 in DMC 125, DMC 160, DMC 240/290-400, and DMC 340/290-400	4 in DMC 65 4.5 in DMC 85 7 in DMC 125, DMC 160, and DMC 240/290-400

	3 in DMC 85/65-150	10 in DMC 340/290-400 5 in DMC 85/65- 150
Downtown Mixed Residential/Residential (DMR/R)	1 in DMR/R 85/65 1 in DMR/R 125/65 1 in DMR/R 240/65	1 in DMR/R 85/65 2 in DMR/R 125/65 2 in DMR/R 240/65
Downtown Mixed Residential/Commercial (DMR/C)	1 in DMR/C 85/65 1 in DMR/C 125/65 2 in DMR/C 240/125 2.5 in DMR/C 65/65-85 2.5 in DMR/C 65/65-150	4 in DMR/C 85/65 4 in DMR/C 125/65 5 in DMR/C 240/125 4 in DMR/C 65/65-85 4 in DMR/C 65/65-150
Pioneer Square Mixed (PSM)	N.A.	N.A.
International District Mixed (IDM)	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85- 150	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150 6 in IDM 150/85-150
International District Residential (IDR)	1	2 if 50% or more of the total gross floor area on the lot is in residential use
International District Residential/Commercial (IDR/C)	3, except hotels 6 for hotels**	3, except hotels 6 for hotels**
Downtown Harborfront 1 (DH1)	N.A.	N.A.
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
Pike Market Mixed (PMM)	7	7

Footnotes: N.A. = Not Applicable. * In the IDM 150/85-150 zone, hotel uses are subject to the base FAR of 3 FAR. ** Hotel use may be combined with up to 3 FAR of other chargeable floor area, up to a total of 6 FAR.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to this chapter.

a. In DOC1, DOC2, DH2, and DMC zones that are located outside of South Downtown, if chargeable floor area above the base FAR is allowed on a lot for development that includes a new structure, the first increment of chargeable floor area above the base FAR, shown for each zone in Table B for 23.49.011, shall be gained by making a commitment satisfactory to the Director that the proposed development will earn a LEED Silver

rating or meet a substantially equivalent standard approved by the Director as a Type I decision. In these zones outside of South Downtown, no chargeable floor area above the base FAR is allowed for a project that includes chargeable floor area in a new structure unless the applicant makes such a commitment. If such a commitment is made, Section 23.49.020 applies. This subsection 23.49.011.A.2.a shall expire on May 12, 2011.

((Table B for 23.49.011))

Table B for 23.49.011	
Zone	First increment of FAR above the base FAR achieved through LEED Silver Rating
All DOC1 zones	1.0
All DOC2 zones	0.75
DMC 340/290-400	0.50
DMC 125, DMC 160, DMC 240/290-400	0.25

b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown, additional chargeable floor area above the first increment of FAR that exceeds the base FAR may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or Section 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, except as otherwise expressly provided in this subsection 23.49.011.A.2. After the expiration of subsection 23.49.011.A.2.a, the first increment of floor area that exceeds the base FAR shall be zero.

* * *

B. Exemptions and ((D))deductions from FAR ((E))calculations((-))

1. The following are not included in chargeable floor area, except as specified below in this Section 23.49.011:

a. Retail sales and service uses and entertainment uses in a DRC zone, up to a maximum FAR of two for all such uses combined;

b. Street-level uses meeting the requirements of Section 23.49.009, Street-level use requirements, whether or not street-level use is required pursuant to Map 1G, if the uses and structure also satisfy the following standards:

1) The street level of the structure containing the exempt space must have a minimum floor to floor height of 13 feet;

2) The street level of the structure containing the exempt space must have a minimum depth of 15 feet; and

3) Overhead weather protection is provided satisfying Section 23.49.018.

c. Shopping atria in the DRC zone and adjacent areas shown on Map 1J, provided that:

1) The minimum area of the shopping atria is 4,000 square feet;

2) The eligibility conditions of the Downtown Amenity Standards are met; and

3) The maximum area eligible for a floor area exemption is 20,000 square feet;

d. Child care;

e. Human service use;

f. Residential use, except in the PMM ((and DH2)) zone((s)), and provided that allowable residential floor area is limited on lots from which TDP is transferred in accordance with Chapter 23.58A;

g. Live-work units, except in the PMM((and DH2)) zone((s));

* * *

Section 2. Section 23.49.013 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.013 Bonus floor area for amenities

A. An applicant may achieve a portion of the chargeable floor area to be established in addition to base FAR through bonuses for amenities, subject to the limits in this chapter.

Amenities for which bonuses may be allowed are limited to:

1. Public open space amenities, including hillside terraces on sites shown as eligible for bonuses on Map 1J, urban plazas in DOC1, DOC2 and DMC 340/290-400 zones, parcel parks in DOC1, DOC2, DMC, DMR, DH2, and IDM zones, public atria in DOC1, DOC2, DMC 340/290-400, and DMC 85/65-150 zones, green street improvements and green street setbacks on designated green streets;

2. Hillclimb assists or shopping corridors on sites shown as eligible for these respective bonuses on Map 1J;

3. Human services uses as follows:

- a. Information and referral for support services;
- b. Health clinics;
- c. Mental health counseling services;
- d. Substance abuse prevention and treatment services;
- e. Consumer credit counseling;
- f. Day care services for adults;
- g. Jobs skills training services;

4. Public restrooms;

5. For projects in a DOC1, DOC2, or DMC 340/290-400 zone, rehabilitation and preservation of Landmark performing arts theaters, provided that the following conditions are met:

1 a. the theater contains space that was designed for use primarily as, or is
2 suitable for use as, a performing arts theater;

3 b. the theater is located in a DOC1, DOC2, DRC, or DMC zone;

4 c. the theater is a designated Landmark pursuant to Chapter 25.12;

5 d. the theater is subject to an ordinance establishing an incentive and
6 controls, or the owner of the theater executes, prior to the approval of a floor area bonus under
7 any agreement with respect to such theater, an incentives and controls agreement approved by
8 the City Landmarks Preservation Board;

9 e. the theater has, or will have upon completion of a proposed plan or
10 rehabilitation, a minimum floor area devoted to performing arts theater space and accessory uses
11 of at least 20,000 square feet; and

12 f. The theater will be available, for the duration of any commitment made
13 to qualify for a floor area bonus, for live theater performances no fewer than 180 days per year;
14 and

15 6. Transit station access for fixed rail transit facilities.

16 B. Standards for ~~((A))~~amenities

17 1. Location of ~~((A))~~amenities. Amenities provided by the applicant by
18 performance shall be located on the lot using the bonus, except as follows:

19 a. Green street improvements may be located within an abutting right-of-
20 way subject to applicable Director's rules.

21 b. An open space amenity, other than green street improvements, may be
22 on a lot other than the lot using the bonus, provided that it is within a Downtown zone and all of
23 the following conditions are satisfied:

1 1) The open space must be open to the general public without
2 charge, must meet the eligibility conditions of the Downtown Amenity Standards, and must be
3 one of the open space features cited in subsection 23.49.013.A.1.

4 2) The open space must be within ¼ mile of the lot using the
5 bonus, except as may be permitted pursuant to subsection 23.49.013.B.1.b.4.

6 3) The open space must have a minimum contiguous area of 5,000
7 square feet, except as may be permitted pursuant to subsection 23.49.013.B.1.b.4.

8 4) Departures from standards for the minimum size of off-site open
9 space and maximum distance from the project may be allowed by the Director as a Type I
10 decision if the Director determines that if such departures are approved, the proposed open space
11 will meet the additional need for open space caused by the project, and improve public access to
12 the open space compared to provision of the open space on-site.

13 5) The owner of any lot on which off-site open space is provided to
14 meet the requirements of this Section 23.49.013 shall execute and record an easement or other
15 instrument in a form acceptable to the Director assuring compliance with the requirements of this
16 Section 23.49.013, including applicable conditions of the Downtown Amenity Standards.

17 c. Public restrooms shall be on a ground floor; shall satisfy all codes and
18 accessibility standards; shall be open to the general public during hours that the structure is open
19 to the public, although access may be monitored by a person located at the restroom facility;
20 shall be maintained by the owner of the structure for the life of the structure that includes the
21 bonused space; and shall be designated by signs sufficient so that they are readily located by
22 pedestrians on an abutting street or public open space. The Director is authorized to establish
23 standards for the design, construction, operation and maintenance of public restrooms qualifying
24 for a bonus, consistent with the intent of this subsection 23.49.013.B.1.c to encourage the
25 provision of accessible, clean, safe and environmentally sound facilities.

2. Options for ~~((P))~~provision of ~~((A))~~amenities~~((-))~~

a. Amenities must be provided by performance except as expressly permitted in this Section 23.49.013. The Director may accept a cash payment for green street improvements and a related voluntary agreement from the applicant, subject to this Section 23.49.013, the Downtown Amenity Standards and the Green Street Director's Rule, DR 11-2007, if the Director determines that improvement of a green street abutting or in the vicinity of the lot within a reasonable time is feasible. The cash payment must be in an amount sufficient to improve fully 1 square foot of green street space for each 5 square feet of bonus floor area allowed for such payment. The cash payment shall be maintained in a restricted account and shall be used to improve a green street abutting or in the vicinity of the lot.

b. Rehabilitation and preservation of a Landmark performing arts theater may consist of financial assistance provided by the applicant for rehabilitation work on a Landmark performing arts theater, or for retirement of the cost of improvements made after February 5, 1993, if:

1) The assistance is provided pursuant to a linkage agreement between the applicant and the owner of the Landmark performing arts theater satisfactory to the Director, in which such owner agrees to use such financial assistance to complete such rehabilitation and agrees that the applicant is entitled to all or a portion of the bonus floor area that may be allowed therefore;

2) The owner of the Landmark performing arts theater executes and records covenants enforceable by the City, agreeing to maintain the structure and the performing arts theater use, consistent with the Downtown Amenity Standards; and

3) Prior to the issuance of any building permit after the first building permit for the project using the bonus, and in any event before any permit for any construction activity other than excavation and shoring issued for that project, unless the

rehabilitation work has then been completed, the applicant posts security for completion of that work, consistent with the Downtown Amenity Standards.

3. Ratios and limits((:))

a. Amenities may be used to gain floor area according to the applicable ratios, and subject to the limits in Section 23.49.011 and in Table A for 23.49.013.

((Table A for 23.49.013 Downtown Amenities))

Table A for 23.49.013 Downtown Amenities									
Amenity	Zone Location of Lots Eligible to Use Bonus							Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus or maximum floor area gain
	DOC1	DOC2	DMC 340/290-400	DH2,DMC 125, DMC 160, DMC 85/65-150, and DMC 240/290-400	DRC	DMR	IDM		
Hillside Terrace	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							5:1	6,000 SF
Urban Plaza	X	X	X					5:1	15,000 SF
Commercial Parcel Park	X	X	X	X			X	5:1	7,000 SF
Residential Parcel Park			X	X		X	X	5:1	12,000 SF
Green Street Parcel Park	Eligible for bonus only on lots abutting a designated green street							5:1	7,000 SF
Public Atrium	X	X	X					5:1	5,500 SF
Green Street Improvement	Eligible for bonus only on lots abutting a designated green street							5:1	No limit
Green Street Setback	Eligible for bonus only on lots abutting a designated green street that are not subject to property line street wall requirement							1:1	10 times the length of lot's

Table A for 23.49.013 Downtown Amenities									
Amenity	Zone Location of Lots Eligible to Use Bonus							Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus or maximum floor area gain
									green street frontage
Hillclimb Assist	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X		Not Applicable	Maximum gain of 1.0 FAR
Public Restroom	X	X	X	X	X	X		7:1	No limit
Human Services	X	X	X	X	X	X		7:1	10,000 SF
Preservation of Landmark Theater	X	X	X					Variable; maximum of 12:1	Maximum gain of 1.0 FAR

* * *

Section 3. Section 23.49.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.014 Transfer of development rights

A. General ((S))standards((-))

1. The following types of TDR may be transferred to the extent permitted in Table A for 23.49.014, subject to the limits and conditions in this Chapter 23.49:

a. Housing TDR;

- b. DMC housing TDR;
- c. Landmark housing TDR;
- d. Landmark TDR;
- e. Open space TDR; and
- f. South Downtown Historic TDR.

2. In addition to transfers permitted under subsection 23.49.014.A.1, TDR may be transferred from any lot to another lot on the same block, as within-block TDR, to the extent permitted in Table A for 23.49.014, subject to the limits and conditions in this ((e))Chapter 23.49.

3. A lot's eligibility to be either a sending or receiving lot is regulated by Table A for 23.49.014.

4. Except as expressly permitted pursuant to this Chapter 23.49, development rights or potential floor area may not be transferred from one lot to another.

5. No permit after the first building permit, and in any event, no permit for any construction activity other than excavation and shoring or for occupancy of existing floor area by any use based upon TDR, will be issued for development that includes TDR until the applicant's possession of TDR is demonstrated according to rules promulgated by the Director to implement this ((s))Section 23.49.014.

((Table A for 23.49.014))

Table A for 23.49.014						
	TDR Transferable Within-block	Types of TDR Transferable Within or Between Blocks				
Zones ¹	Transfer from any lot within the same Downtown block	Housing TDR	DMC Housing TDR	Landmark TDR and Landmark Housing TDR	Open Space TDR	South Downtown Historic TDR
DOC1 and DOC2	S, R	S, R	X	S, R	S, R	R
DRC	S, R ²	S, R ²	X	S, R ²	S, R ²	R
DMC zones with maximum 10 FAR	S, R	S, R	S	S, R	S, R	R
DMC zones with maximum 7 FAR	S ³	S, R	S, R	S, R	S, R	R
DMC 85' and DH2	X	S, R	X	S, R	S, R	R
DMC 65' and DMC 85/65-150	X	S	X	S	S	R
DMR	X	S, R ⁴	X	S, R ⁴	S, R ⁴	R ⁴
IDR	X	S	X	X	S	S
IDR/C	X	S	X	X	S, R ⁵	S
IDM	X	S, R	X	X	S, R ⁵	S, R
PSM	X	S	X	X	S ⁵	S, R

S = Eligible sending lot. R = Eligible receiving lot. X = Not permitted.

Table A for 23.49.014

	TDR Transferable Within-block	Types of TDR Transferable Within or Between Blocks				
Zones¹	Transfer from any lot within the same Downtown block	Housing TDR	DMC Housing TDR	Landmark TDR and Landmark Housing TDR	Open Space TDR	South Downtown Historic TDR

NOTES

¹ Development rights may not be transferred to or from lots in the ~~((following zones:))~~ PMM(~~(;))~~ or DH1 ~~((or DH2))~~ zones. ² Transfers to lots in a DRC zone are permitted only from lots that also are zoned DRC. ³ Transfers are permitted only from lots zoned DMC to lots zoned DOC1. ⁴ Transfers to lots in a DMR zone are permitted only from lots that also are zoned DMR except that transfer of TDR to a lot in a DMR zone located in South Downtown is permitted from any eligible sending lot in South Downtown. ⁵ Transfers of open space TDR to lots in South Downtown are permitted only from lots that are also located in South Downtown.

* * *

Section 4. Section 23.49.181 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone

* * *

E. Affordable ~~((H))~~housing

1. Amount. An applicant using bonus floor area shall provide an amount of net rentable floor area of low-income housing, applicable to units for sale or rent, equal to at least 17.5 percent of the net bonus floor area obtained.

2. Serving income-eligible households. For the purposes of this Section 23.49.181, a housing unit serves income-eligible households only if either:

a. For a period of 50 years beginning upon the issuance of a final certificate of occupancy by the Department of Planning and Development for ~~((a structure~~

1 using))the ((~~bonus floor area for which that~~))affordable housing((~~is provided~~)), the housing is
2 used as rental housing solely for income-eligible households at rent limited so that annual
3 housing costs, including rent and basic utilities, do not exceed 30 percent of 80 percent of
4 median income, and the housing unit and the structure in which it is located are maintained in
5 decent and habitable condition, including basic appliances in the housing unit; or

6 b. The unit is sold for owner-occupancy to an income-eligible household
7 at an initial sale price limited so that the annual housing costs, including mortgage principal and
8 interest, real estate taxes, insurance, plus homeowner dues if applicable, are not expected to
9 exceed 35 percent of median income, according to a calculation based on reasonable assumptions
10 and approved by the Director of Housing, and the unit is subject to a recorded instrument
11 satisfactory to the Director of Housing with a term extending until 50 years after the issuance of
12 a final certificate of occupancy by the Department of Planning and Development for the structure
13 using the bonus floor area for which that affordable housing is provided, providing for sales
14 prices on any resale consistent with affordability on the same basis as the initial sale, allowing
15 resales only to income-eligible households, and requiring that upon any resale, the housing unit
16 be in decent and habitable condition, including adequate basic appliances in the housing unit.

17 3. Location, size and other requirements. Affordable housing may be provided
18 within the area defined on Map A for ((~~Section~~))23.49.180 where additional height is permitted.
19 Alternatively, affordable housing may be provided on one or more different lots within South
20 Downtown, subject to approval by the Director of Housing under the criteria in this subsection
21 23.49.181.E and to the conditions in subsection 23.49.181.B.2. Approval requires a
22 determination by the Director of Housing that the affordable housing will

23 (a) provide a public benefit; and

24 (b) be more affordable than market rents

1 or sale prices, as applicable, for housing in South Downtown. The affordable housing shall be
2 provided in a range of unit sizes consistent with RCW 36.70A.540 and comply with all
3 requirements of RCW 36.70A.540.

4 4. Time of completion. Unless affordable housing is to be provided on a lot
5 other than that of the project using the bonus and the Director of Housing has made all approvals
6 described in subsections 23.49.181.B.2 and 23.49.181.E.3, the affordable housing shall be
7 completed and ready for occupancy at or before the time when a certificate of occupancy is
8 issued for any bonus floor area that is based on the affordable housing and as a condition to any
9 right of the applicant to such a certificate of occupancy.

10 5. No ~~((§))~~subsidies for affordable housing; exceptions.

11 a. In general, and except as may be otherwise required by applicable
12 federal or state law, no bonus floor area may be earned by providing affordable housing if:

13 1) Any person is receiving or will receive with respect to the
14 housing any charitable contributions or public subsidies for housing development or operation,
15 including, but not limited to, tax exempt bond financing, low-income housing tax credits, federal
16 loans or grants, City of Seattle housing loans or grants, county housing funds, and State of
17 Washington housing funds; or

18 2) The housing is or would be, independent of the requirements for
19 the bonus floor area, subject to any restrictions on the income of occupants, rents or sale prices.

20 b. As exceptions to the general rule in subsection 23.49.181.E.5.a:

21 1) All affordable housing provided as a condition to bonus floor
22 area within the area defined on Map A for ~~((Section))~~23.49.180 where additional height is
23 permitted may consist wholly or in part of the same units used to satisfy terms under which the
24 lot or a portion thereof was transferred by a public body, and ~~((up to seventy))~~any units of
25 affordable housing provided as a condition to bonus floor area on a lot outside the area defined
26
27
28

1 on Map A for ((Section))23.49.180 where additional height is permitted, may consist wholly or
2 in part of the same units used to satisfy terms under which the lot or a portion thereof was
3 transferred by a public body;

4 2) The improvements on the lot may qualify for, and affordable
5 housing provided as a condition to bonus floor area may consist wholly or in part of the same
6 units used to satisfy conditions of, property tax exemptions pursuant to Chapter 5.73((SMC));
7 and

8 3) The prohibition on public subsidies for affordable housing does
9 not include Internal Revenue Code Section 45D, New Markets Tax Credits.

10 c. The Director of Housing may require, as a condition of any bonus floor
11 area, that the owner of the lot upon which the affordable housing is located agree not to seek or
12 accept any subsidies, other than as described in subsection 23.49.181.E.5.b, related to housing.
13 The Director of Housing may require that such agreement provide for the payment to the City,
14 for deposit in an appropriate sub-fund or account, of the value of any subsidies received in
15 excess of any amounts allowed by such agreement.

16 d. As an exception to the restriction on subsidies, the Director of Housing
17 may allow the building or buildings in which the affordable housing is located to be financed in
18 part with subsidies based on determinations that:

19 1) the total amount of affordable housing is at least 300 net
20 residential square feet greater than the minimum amount of affordable housing that would be
21 needed to satisfy the conditions of this Section 23.49.181;

22 2) the public benefit of the affordable housing net of those
23 subsidies, as measured through an economic analysis, exceeds the public benefit from the
24 minimum amount of affordable housing; and

3) the subsidies being allowed would not be sufficient to leverage private funds for production of the affordable housing, under restrictions required in this Section 23.49.181, without additional City subsidy.

* * *

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2012, and signed by me in open session in authentication of its passage this ____ day of _____, 2012.

President _____ of the City Council

Approved by me this ____ day of _____, 2012.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

Monica Martinez Simmons, City Clerk

(Seal)